

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
NORTHERN DIVISION**

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UNITED STATES OF AMERICA,

Plaintiff,

Criminal No.: 12-20607

v.

DISTRICT JUDGE: THOMAS L. LUDINGTON  
MAGISTRATE JUDGE CHARLES E. BINDER

SUE A. WILSON,

Defendant.

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**MOTION IN LIMINE**

**NOW COMES** the above named Defendant, SUE A. WILSON, by and through her Attorney, JAMES F. PIAZZA, and respectfully request this Honorable Court to prohibit the Government from introducing proposed exhibit #85, based on the following:

1. Defendant is charged with Conspiracy to Defraud the United States; and Intent to deceive the Social Security Administration.
2. That recently the Government has disclosed to Defense Counsel the items it intends to introduce at the time of Trial, including proposed exhibit #85, (the court has previously been provided a copy of this item).
3. That said item contains a letter from an insurance company with what purports to be a sticky note on it with handwriting relating to alleged percentages of ownership of stock and

other writings.

4. That the Government indicates that this was filed in the defendant's accountants files.

5. Even if this is filed in defendant's accountants files, there is no foundation of who wrote this item on a sticky note which is attached to a letter from an insurance company in which ended up in a file in the accountants file.

6. That it appears that this does not appear to fall within the business record exception to the hearsay rule as it appears that the sticky note appears not to be in the ordinary course of business.

Wherefore, Defendant respectfully requests this Court to prohibit the Government from introduce proposed exhibit #85.

Dated: May 13, 2013

s/James F. Piazza  
JAMES F. PIAZZA  
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(P30172)

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**BRIEF IN SUPPORT OF MOTION IN LIMINE**

The Government indicates its alleged to introduce an exhibit, #85 which appears to be a document from an insurance company, that appears to have a sticky note on same with some handwriting from an unknown origin. The Government plans to introduce this into evidence against the Defendant.

Any handwritten note on a sticky note is hearsay. It does not appear to be any evidence for a proper foundation, as there is no disclosure to Defense Counsel who wrote the note or when the note was written, nor how the writer obtained said information. Further, the note contains what appears to be conclusion, speculation or assumption on the part of the writer.

Further, it appears that this does not fall within the records held within the course of the business exception as it appears simply to be a sticky note on a letter that is found in a file.

FRE 803(6) requires that any record to be introduced as a business record must be kept in the course of a regular conducted activity of the business; and that the maker of the record was in regular practice of that activity. A sticky note with some handwriting from an unknown person who appears to be making assumptions or conclusions, does not appear to fall within the business record exception.

As such, it appears to be hearsay statement and inadmissible.

Wherefore, Defendant respectfully requests this Court to grant this motion and exclude said document.

Dated: May 13, 2013

s/James F. Piazza  
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**CERTIFICATION OF SERVICE**

STATE OF MICHIGAN )  
                        )SS.  
COUNTY OF SAGINAW)

I, JAMES F. PIAZZA, hereby certify that on the 13th day of May, 2013 I electronically filed the Motion in Limine and Supporting Brief with the Clerk of the Court using ECF system which will send notification of such filing to the following:

Assistant U.S. Attorney,  
All Attorneys of Record

Dated: May 13, 2013

/s/James F. Piazza  
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